



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,792	01/03/2001	Kurosh Samari-Kermani	20000426.ORI	1961

23595 7590 08/25/2008
NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

EXAMINER

POPOVICI, DOV

ART UNIT	PAPER NUMBER
----------	--------------

2625

MAIL DATE	DELIVERY MODE
-----------	---------------

08/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/753,792	SAMARI-KERMANI, KUROSH	
	Examiner	Art Unit	
	Dov Popovici	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-18 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18 and 23-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 34, line 7, the claimed recitation of “adding medical data viewing software, system files, at least one print template file, medical data and at least one print template merge file to a job folder” is unclear, vague and indefinite in the context of the claim. Is unclear as to what is meant by “adding medical data viewing software”? How can you add medical data viewing software to a job folder is unclear?

In claim 34, line 9, the claimed recitation of “creating a job file containing the information” is unclear, vague and indefinite in the context of the claim. What “information” is being referred to?

In claim 34, line 15, the recitation of “the job” lacks proper or clear antecedent basis. What “job” is being referred to? It is the job file or the job data (recited on line 14) or is it the job folder (recited on line 8)?

In claim 34, line 16, the recitation of “starting the back up the patient data” is unclear, vague and indefinite in the context of the claim.

In claim 34, line 21, the recitation of “the backup database” lacks proper antecedent basis.

Art Unit: 2625

In claim 34, line 23, the recitation of “the backup database job” lacks proper antecedent basis.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17, 23-24 and 33-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 17 and 33-34, the claimed limitation of “creating a backup job for each section” is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15,16, 18 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelanek in view of Murray et al (US 5,721,891), Koritzinsky (US 6,988,074), Kahle (US 5,518,325) and Laney et al (US 6,366,966).

Regarding claims 15, 16, 18 and 25-32: Pelanek teaches a medical data recording method (see fig. 1) comprising: receiving medical data (32 received medical data from 30, see fig. 1), extracting patient identification information (see column 5, lines 40-62) and study information from the medical data (column 5, lines 40-45, column 5, lines 25-30; note, the patient information would be supplied by image source 58) received and storing the patient identification information and study information, adding medical data to a job folder (directory, column 5, lines 49), creating a job file (the collection of data that is being sent to the CD writer, see fig. 3, and see fig. 4) and storing it (in the archive station 32), submitting the job file to the CD writer, burning a DISC with the data produced by the job file (see column 4).

Pelanek does not specifically mentions optionally deleting the job file and the job data.

The examiner is taking "Official Notice" that it is well known in the art to delete file(s) and/or data.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pelanek system to optionally deleting the job file and the job data.

It would benefit Pelanek because Pelanek's hard drive or memory would run out of storage space and/or memory space, if the created files stored in the hard drive

Art Unit: 2625

would never be deleted. Therefore, by optionally deleting the job file and job data, more memory space can be made available to process other data and store other data, while improving system performance, such as system speed and storage, can be greatly improved with less stored data or files.

Pelanek does not teach a timer detects a pause in a data stream to select the end of the data transmitted to the computer for each job.

Murray, in the same area of transmitting data, teaches a timer (column 2, lines 30-35) detects a pause (column 2, lines 40-50) in a data stream to select the end of the data transmitted.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: noting the end of the received medical data by a time out period for each patient.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek system by the teaching of Murray because of the following reason(s): (a) it would improve the system of Pelanek by detecting the end of data transmitted, as taught by Murray at column 1, hence, each patient medical record can be separated by a time out period, and thus, this will prevent medical data from getting mixed up between different patients.

Pelanek does not specifically specifies what kind of imaging standard is used for presenting his/her medical images, therefore a person with ordinary skill in the art would need to rely on other references for imaging standard of presenting the medical images.

Art Unit: 2625

Koritzinsky, in the same area of medical images, teaches that DICOM is widely used for data presentation in the medical field.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: processing the received medical data to comply with DICOM standards and to include the system file(s) for DICOM (DICOM inherently contains system file(s) for data presentation) in the directory/job folder. (Note that Pelanek teaches storing information using directory).

It would have been obvious to one person having ordinary skill in the art at the time the invention was made to have modified Pelanek by the teaching of koritzinsky to include processing the received medical data to comply with DICOM standards and to include the system file(s) for DICOM, so that all users of the network or received medical data can comply with the DICOM standards and for providing compatibility among all users, network and received medical data; and (b) it would allow the stored images or the received medical data to be view by other medical systems.

Pelanek does not specifically specifies viewing software, print template file, and print template merge file for printing a template, using an autoloader, on the DISC.

Laney, in the same area of viewing data stored in a CD, on a computer, teaches recording software on the medium for viewing the data stored thereon on a computer (see column 3, lines 15-65).

Kahle teaches a print template file (see the title, and see column 7, lines 1-5) and a print template merge file (form, see column 7, lines 1-4) for printing a template on the DISC (see column 7, lines 55-60).

Art Unit: 2625

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: recording software on the medium for viewing the data stored thereon on a computer.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek by the teaching of Laney because viewing data stored in a CD on a computer and recording software on a medium for viewing the software would provide the user with a greater ease of using the computer as taught by Laney at column 1, lines 10-42.

It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek by Kahle to include a print template file and a print template merge file in the directory of computer of Pelanek and a autoloader for receiving the print job file/collected data for printing a template on the DISC.

It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek by Kahle because it would provide a system for printing on disk immediately before and/or after it is recorded, without requiring the manual writing of information; and the product quality and integrity as well as improved production cycle time can be assured; as taught by Kahle, column 1, lines 40-50).

Pelanek teaches backing up the patient data on a DISC if desired (inherently properties of storing data on a DISC, also see column 3, lines 43-45).

Response to Arguments

Applicant's arguments filed 05/06/2008 have been fully considered but they are not persuasive.

With respect to applicant's arguments found on pages 7-9, the arguments have been fully considered, but they not found to be persuasive because of the following reason(s):

Figure 1 of Pelanek teaches the archive station received medical images from a medical image source 30 and store in a buffer 52 (see column 5, lines 34-45). Buffer 52 is capable of storing at least (it implies) two long patient study cases (see column 5, lines 59-62). Pelanek further teaches a CD is used to record a patient's case study (see column 5, lines 50-57 and see column 1, lines 1-15). Therefore, the patient and his or her study information must be extracted from the data from at least two patients received and stored in buffer storage 52.

Furthermore, Pelanek discloses that the user enters the patient's name, ID number, etc. into the archive station 32 by user input device 44, if this information cannot be supplied via the XEM motion image source interface 58. This information is merged with the image data and written by CD writer 60 to the CD 10. This feature allows the elimination of preparing the lead letters and the identification x-ray exposure. Part of this information will be included in the header information written to the CD 10 as well as the file directory of the CD 10 contents (see column 5, lines 42-50).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., applicant is concerned with obtaining patient identity information for "automatically printing" such information on the discs for "identification of the discs in patient files", applicant is working with "DICOM standards in extracting the patient ID information" which the prior art does not do, claims 15 and 16 "data is automatically extracted from the information on a disc and printed on the disc" which is not found in Pelanek) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2625

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dov Popovici whose telephone number is 571-272-4083. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dov Popovici
Primary Examiner
Art Unit 2625

/Dov Popovici/
Primary Examiner, Art Unit 2625